

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1378 - HB 1416

March 4, 2021

SUMMARY OF BILL: Changes the age of the victim for a Class A felony offense of trafficking for a commercial sex act from 15 years of age to a minor. Requires no release eligibility for a human trafficking offense committed after July 1, 2021, less sentence credits. Prohibits a reduction of such sentences to less than 85 percent of the sentence imposed. Creates a Class A felony offense of aggravated human trafficking and requires individuals convicted to serve 100 percent of any sentence imposed, undiminished by any sentence credits. Requires such sentence to be no less than a sentence imposed for a Range II offender.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$190,900 Incarceration*

Assumptions:

Trafficking a Person for a Commercial Sex Act

- Pursuant to Tenn. Code Ann. § 39-13-309(c), trafficking for commercial sex act is a Class B felony offense and enhanced to a Class A felony offense if the victim is under the age of 15.
- The proposed legislation enhances trafficking for commercial sex to a Class A felony offense if the victim is less than 18 years of age.
- Based on information provided by the Department of Correction (DOC), there has been an average of 2.67 Class B felony admissions for trafficking for commercial sex act offenses each year over the past three years with an average sentence length of 9.75 years and 3.16 years served.
- Based on information provided by the DOC, there has been an average of 0.33 Class A felony admissions for trafficking for commercial sex act of a child less than 15 or on the grounds of or within 1,000 feet of outlined locations over the past three years with an average sentence length of 15 years.
- This analysis estimates that one Class B felony trafficking for commercial sex act admission every five years will be enhanced to a Class A felony offense.
- The proposed legislation requires individuals committing a human trafficking offense to serve 85 percent of the sentence imposed.
- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.
- Population growth and recidivism will not impact these admissions.

- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every five years serving an additional 2,498.31 days $[(10 - 3.16) \times 365.25]$. The annualized increase in state incarceration expenditures is estimated to be \$40,203 $(\$80.46 \times 2,498.31 / 5)$.
- The proposed legislation will increase the time incarcerated for an estimated one admission per year.
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every year serving an additional 1,872.82 days $\{[(9.75 \times 85\%) - 3.16] \times 365.25\}$. The annualized increase in state incarceration expenditures is estimated to be \$150,687 $(\$80.46 \times 1,872.82 \times 1)$.

Aggravated Human Trafficking

- The proposed legislation defines aggravated human trafficking as the commission of an act that constitutes any of the following criminal offenses, if the victim of the criminal offense is under the age of 13:
 - Involuntary labor servitude
 - Trafficking persons for forced labor or services
 - Trafficking for commercial sex act; or
 - Promoting the prostitution of a minor.
- This analysis assumes that proposed legislation will result in a sentence enhancement for one Class A felony admission every three years.
- Pursuant to Tenn. Code Ann. § 40-35-112(b)(1), a Range II sentence for a Class A felony offense is not less than 25 years nor more than 40 years.
- The average sentence for outlined offenses over the last three years is 15 years.
- The proposed legislation will result in each admission serving an estimated additional $(25 - 15)$ 10 years; however, such impact exceeds the window of this analysis.

Total Impact to Incarceration

- The total annualized increase in state incarceration expenditures is estimated to be \$190,890 $(\$40,203 + \$150,687)$.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Bojan Savic". The script is cursive and fluid, with the first name "Bojan" and last name "Savic" written in a single continuous stroke.

Bojan Savic, Interim Executive Director

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